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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 08/04/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/804,673

Applicant(s)

REMER ET AL.

Examiner

Christopher J Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 2/19/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. Claim 18 is objected to because of the following informalities: Claim 18 appears incomplete, there is no consequence to failing to receive authorization on time.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-4, 6-9, 11, 13-16, 18, 20-24, and 28-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Griswold US 5,940,504.**

As per claims 1, 8, 15,16, 20,21, 30-33 Griswold discloses a method to manage use of a program wherein it is determined whether a monitored program (Licensed product) is authorized to execute by sending a request datagram to the Licensor, (Col 4 lines 34-40). Griswold discloses measuring a usage time for said monitored program, and sending it to a monitoring program (Licensor), (Col 4 line 38, Col 6 line 10-19).

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As per claim 2, Griswold discloses receiving a request for authorization to execute from said monitored program, (Col 5 lines 47-52). Griswold discloses authorizing the monitored program for a time interval (hourly use), (Col 4 lines 23-25).

As per claim 3, Griswold discloses repeating operations a) to c) (repeated datagrams on time intervals) until a terminating event has occurred (denial), (Col 6 lines 15-20, Col 5 lines 40-43).

As per claim 4, Griswold teaches adding each time interval together to form a time usage, (Col 4 lines 35-40).

As per claim 6, 18, 19 Griswold discloses a terminating event comprising failure to receive another request for authorization due to a detachment from the network, (Col 4 lines 19-23).

As per claim 7, Griswold teaches encryption in authorization requests, (Col 8 lines 3-7).

As per claims 11, 14, and 29 Griswold teaches time interval in an authorization table (Datagram Number, Sent Date& Time, Send Interval), and sending part of the table to the licensor via datagram (Fig 2, Col 6 lines 1-15).

As per claims 13, and 28 Griswold teaches determining cost value of usage, (Col 4 lines 35-40).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of Mita US 5,291,596.**

As per claims 5, and 17,

Griswold does not disclose a termination message.

Mita teaches a termination message indicating the program has stopped executing, (Col 6 lines 8-22).

It would have been obvious for one of ordinary skill to add Mita's termination notice to Griswold's program authorization system, so that Griswold would be able to better manage the availability of programs for the licensee, (Mita line 15) (Griswold table 1, Col 11, #4).

**Claims 9, 10, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of Munguia US 2001/0052013.**

As per claims 9, 10, 25, and 26, Griswold does not disclose http, Griswold discloses TCP/IP.

Munguia teaches communicating with a version of http, https, ([53]). It would have been obvious to one skilled in the art to use https communicating over the Internet in Griswold, because https is secure.

**Claims 12, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of Reeder US 6,141,652.**

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As per claims 12, and 27, Griswold does not disclose showing usage to a user.

Reeder teaches an internet account system based on billing. Reeder discloses displaying the amount usage to a user, (Col 14 line 54).

It would have been obvious to one skilled in the art to include showing usage to a user with Griswolds system so that a user may be able to distinguish cost and time usage of an application.

*Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J Brown whose telephone number is 703-305-8023. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 703-308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J. Brown



Andrew Caldwell  
Andrew Caldwell